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STATUTORY EXCEPTIONS TO THE COMPETITIVE SERVICE

A REPORT
TO THE
COMMITTEE ON
POST OFFICE AND CIVIL SERVICE
OF THE
UNITED STATES SENATE
BY THE
U.S. CIVIL SERVICE COMMISSION
JULY 1973



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CENTRAL INTELLIGENCE AGENCY

- I. Identification of and basis for the exception. (Section based on information submitted by agency and supplemented by research of Civil Service Commission staff.)

A. Statutory citation.

Section 10(a) of the Central Intelligence Act of 1949, as amended (63 Stat. 212, 50 U.S.C. 403j).

B. Coverage.

All positions and all personnel of CIA are excepted, but the positions of Director and Deputy Director are to be filled by Presidential appointment with the advice and consent of the Senate.

C. Position coverage.

The number of CIA positions is classified. Positions "include analysts of various kinds, scientists of various disciplines, medical doctors, secretaries, computer and data control positions, security personnel, communications personnel, positions requiring paramilitary training, positions requiring intelligence-gathering training and skills, lawyers, clerical positions of various kinds, training personnel, budget and finance officers, etc."

D. Historical basis for the exception.

A predecessor of the CIA, the Central Intelligence Group, was formed by a Presidential directive of January 22, 1946. The National Security Act of July 1947, which unified the armed forces, also transferred the functions of the Director of the Central Intelligence Group to the Director of the Central Intelligence Agency. The functions, authority, and responsibilities of the CIA were covered by organic legislation for the Agency, in the CIA Act of 1949. CIA functions and activities were felt to require secrecy and security measures. Statutory exceptions from civil service laws are contained in section 10(a) of the amended act: "Notwithstanding any other provisions of law, sums made available to the Agency by appropriation or otherwise may be expended for purposes necessary to carry out its functions including - (1) personal services, including personal services without regard to limitations on types of persons to be employed...."

II. Current agency personnel policy, practices, and procedures for the excepted positions.

A. Recruitment and selection.

1. Use of announcements or other publicity.

External announcements of job opportunities include: advertising in newspapers, professional and technical journals, the College Placement Annual, job listings in professional societies, placement publications, recruitment literature in Federal Job Information Centers and the Armed Forces outplacement centers in military bases, and job announcements sent to academic departments, student advisors and placement officers. Internally, job opportunities are publicized through a vacancy notice system and through vocational counseling activities. The Agency tries to fill vacancies by internal reassignment if possible.

2. Positive recruiting methods.

Full-time recruiters for both professional and clerical/technical positions are in 15 cities throughout the U.S. Recruiting methods also include: contact with placement officers in colleges and universities and with faculty members in "disciplines of interest", contact with military installations, attendance at professional society meetings, use of Federal and State employment services, attendance at "career days" and "job fairs" at all levels from high school up, and active recruitment of minority groups. "Once the candidate has been identified, recruitment begins with an interview."

3. Job evaluation system and qualification standards.

The CIA's job evaluation system is based on that established under the classification provisions of title 5, U.S.C. The basic occupational coding system of the Civil Service Commission for Federal positions has been adapted for CIA positions. Position grades, grade definitions, the pay schedule, the step-rate system, and premium pay rates are used as well as other benefits applicable to General Schedule employees. CSC position standards are used in classification of CIA jobs as far as applicable. Agency position standards are used for jobs not covered, including super-grade jobs, intelligence and operations positions, and other positions. Where standards are not available, job

comparison is a usual method of classification. Qualification standards of the CSC are followed. The CIA system provides for a periodic classification review at least every three years. The CSC excepted the CIA from the Commission's classification system in 1949, and it was excepted by statute later that year.

4. Examining methods and techniques.

a. Written tests and other ranking devices. A Professional Applicant Test Battery is used to assess the qualities of professional applicants. Background evaluation is based on a review of transcripts, certificates, honors achieved, and other related evidence. Proficiency tests are used to verify claimed and measurable skills in foreign languages, shorthand, typing, etc. A general aptitude test is used for clerical applicants. Specialized aptitude tests are used for technical fields of work, such as computer operations, communications, photo interpretation, etc. Tests, except for basic skills tests, have no absolute value and are not used in ranking applicants. Final decisions rest on multiple appraisals of all evidence.

b. Registers or other employment lists. Though no formal registers are maintained, "significant qualifications data" are saved in a "computerized Qualifications Inventory." Applicant file summaries are kept.

5. Selection and appointment practices.

a. Veteran preference. The CIA, though exempt by law from automatic application of veteran preference, in practice gives preference to the veteran whenever possible. "...in instances of approximately equal qualifications, the veteran will be considered over the non-veteran."

b. EEO. Special recruitment efforts are made to hire minority applicants. Special attention is paid to minority applications and "component performance in minority employment." "Components which appear to be lagging become the object of follow-up action by the Agency Equal Employment Opportunity Officer."

B. Promotion policies.

"For many years the Agency has operated under a policy of competitive selection for promotion." An employee's

performance, qualifications, length of service, and value to the Agency are competitively evaluated. Those employees who have been downgraded without personal cause are given competitive consideration for promotion to their former grades. Each Career Service is a competitive area for promotion for the employees in that Service. Separate areas of competition may be established in that Service if necessary because of differences in occupation or function. Promotions are limited to one-grade advancements, except by specific recommendations of the Director of Personnel. Competitive promotion evaluation of personnel in grades GS-09 through GS-14 is done at least annually. Employees in GS-08 and below are evaluated for promotion when the heads of Career Services consider it appropriate. Competitive evaluation is not required for these grades, but the principle of competitive evaluation is followed in selection for promotion.)

C. Removal.

1. Separations of surplus personnel are handled under the authority of the National Security Act of 1947 as amended. The surplus employee is notified in writing of his proposed separation and his right to submit within ten days a request for an opportunity to present orally or in writing his reasons for not being declared surplus. The Director of Personnel may, after review, ask the head of the employee's office to reconsider the declaration. Attempts will be made to place the surplus employee elsewhere in the Agency. If these attempts fail, the Director of Personnel recommends to the CIA's Director that the employee be declared surplus. At the same time the Director of Personnel informs the employee in writing of this action and of the employee's right to present information to the CIA Director within ten days. When he is informed of an employee's being declared surplus, the Director may refer the action to the Inspector General, terminate the employee, or disapprove of the recommendation of the Director of Personnel. Whether the employee is removed or not, he is notified in writing by the Director of Personnel.
2. Involuntary separations may result from varying reasons, including inefficiency, failure to meet Agency security or medical standards, misconduct, etc. During the trial period, an employee may be separated after a review by the Director of Personnel. After completion of the trial period, the employee, upon notice of separation, will have the opportunity to answer orally or in writing within ten days. Under statutory authority, the Director may separate an employee immediately, with or without appeal rights, when necessary in the interests of the United States.

D. Agency comment on its use of merit principles.

CIA quotes from a letter from the Chairman of the Civil Service Commission to the Director of the Office of Management and Budget: "The Commission, recognizing the necessary qualifications and caliber of persons holding career-type appointments in the CIA, considers the non-competitive entry of such persons into the competitive service as compatible with merit system principles. The on-site observations of a Commission team assure us that the operations of the CIA personnel system are consistent with merit principles." This letter was written on December 3, 1971.

E. Additional information submitted: Personnel operating policies for attorney positions.

The Agency seeks to recruit some of its lawyers internally, because the intelligence function is an Agency specialty. They also recruit lawyers with or without legal experience who are well qualified on the basis of their law school records, professional backgrounds, and personal qualities. In establishing grades for hiring and promoting, the Agency seeks to be competitive with government practice generally. Cover and security considerations may require special recruiting and assignment. The Agency recommends continued exception.

III. Agency analysis of need for continuing the exception.

A. Comparison of present and original conditions.

The Agency feels that employment conditions and staff problems are essentially the same as they were at the time of statutory exception. The Agency functions and activities still largely bear on national defense. Recruitment, establishment of positions, their number and type, acknowledgement of certain people as CIA employees, and other personnel policies are still classified.

B. Agency reasons for continuing the exception.

The Agency says that it is essential that its statutory exception be continued because of the continuing need for secrecy. The Director's broad authority to terminate employees does not require changes from which administrative appeals may result. Under the CIA Retirement Act of 1964, termination decisions by the Director are not subject to appeal. Also, recruitment of employees from Commission registers would identify those individuals as CIA employees. Having the Commission establish or approve CIA positions would sometimes indicate areas of CIA activity where they should not be disclosed. Since all employees, not only those recruited for intelligence gathering, are subject to reassignment abroad, their number and positions are not to be revealed.

C. Agency recommendation.

The Agency recommends continued exception.

U.S. Civil Service Commission
Opinion on Continued Statutory Exception from the
Competitive Service of the Central Intelligence Agency

Although the organic legislation establishing the Central Intelligence Agency did not provide a specific exception from the competitive service for CIA employees, the Civil Service Commission placed them in Schedule A. In 1949, the CIA was excepted by statute which provided that appropriated or nonappropriated funds might be spent to obtain "personal services without regard to limitations on types of persons to be employed..." The CIA is also exempt from reporting and publishing requirements, and the Director may terminate any employee immediately if he deems it necessary.

The CIA has its own employment system, which appears with respect to the operations visible to us to be a working merit system. It provides for written examinations, a competitive promotion plan, and procedures for removal designed to protect the employee.

Because of the covert nature of some CIA positions, these positions cannot be subject to the laws and regulations governing appointment and removal in the competitive service. Moreover, the agency states that it is necessary to have some mobility between the "undercover" positions and those which are openly acknowledged. Although the civil service laws and regulations could be applied to those positions for which the CIA accepts applications on an open basis, the Commission is of the opinion that a single, excepted personnel system for CIA best meets the needs of the agency.

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CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

OFFICE OF THE DIRECTOR

12 February 1973

Mr. Raymond Jacobson
Director, Bureau of Policies and
Standards
U. S. Civil Service Commission
1900 E Street, N. W.
Washington, D. C. 20415

Dear Mr. Jacobson:

Attached is a report concerning the statutory exception
from the requirements for the competitive service for the
positions in the Central Intelligence Agency. The report is
in the format suggested by Mr. Rosen in his letter of
15 December 1972.

If you should require additional information,
Mr. Harry Fisher, our Director of Personnel, will be
happy to assist you.

Sincerely,

W. E. Colby

W. E. Colby
Executive Director-Comptroller

Enclosure

I. Identification and historical basis of exceptions in the department or agency.

- a. Section 8(a) of the CIA Act of 1949, as amended (50 U.S.C. 403j).
- b. The exception covers all positions and all personnel of CIA except the Director and the Deputy Director. Those positions are to be filled by Presidential appointees with the advice and consent of the Senate (50 U.S.C. 403a).
- c. [The number of CIA positions is classified and, therefore, would not be appropriate for a report of this nature. But we of course will be glad to discuss with you both the numbers in general terms and the kinds of positions. Similarly, classification and security problems preclude the identification of all kinds of positions covered by the exception; however, our positions include analysts of various kinds, scientists of various disciplines, medical doctors, secretaries, computer and data control positions, security personnel, communications personnel, positions requiring paramilitary training, positions requiring intelligence-gathering training and skills, lawyers, clerical positions of various kinds, training personnel, budget and finance officers, etc.]
- d. The historical basis for the exception from the competitive service was and is the fact that CIA functions and activities require stringent secrecy and security measures. The statute was enacted shortly after World War II when the experience of OSS (a predecessor agency to CIA) was fresh in the minds of those seeking and enacting the legislation. Even before the CIA Act (1949), and after the Agency was established in 1947 by the National Security Act, in recognition of the security problems particular to intelligence, the Agency had been excepted from the competitive service by action of the Commission. It was recognized in that period, as it is today, that the accomplishment of intelligence activities requires special authorities and exceptions from normal government procedures and requirements. The CIA Act, therefore, provided not only the authority exempting CIA from competitive service but also

various other authorities and exemptions from reporting and publishing requirements, which, among other things, enable the Agency to avoid disclosure of certain persons as CIA employees. See sections 3, 4, 5, 6, 7 and 8 of the CIA Act, as amended (50 U.S.C. 403c-j). Several court decisions have upheld the authority of the Director to terminate employees under his statutory authority (50 U.S.C. 403c), without regard to other law.

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II. Current agency personnel policy, practice, and procedures for the excepted positions.

a. Recruitment and Selection

The functions of recruitment and selection, particularly of professional and technical employees, involve an intimate awareness of Agency operations and of the qualification requirements stemming therefrom. Ours is a job of procuring and organizing people trained in a broad range of skills and disciplines to carry out the Agency's missions, through methods and procedures which, though not unusual in themselves, are followed in ways that insure both flexibility and the protection of sensitive information. Our methods and procedures incorporate the essential characteristics of the competitive service and are based on merit principles, but are adapted in practice to the security and cover requirements of the Agency.

1. Use of announcements or other kinds of publicity of vacancies.

External, or public, announcements of job opportunities and manpower needs include:

- a. Advertising in newspapers and in professional and technical journals.
- b. Job listings (brief job descriptions with instructions on how to apply) in the placement publications of professional societies and organizations such as the Association of American Geographers, the National Registry for Economists, the American Medical Association, the Modern Language Association, the American Association for the Advancement of Slavic Studies, etc.
- c. A full-page institutional ad each year in the College Placement Annual, copies of which are distributed to every college placement office in the U. S. and to all military bases.

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- d. Distribution of job information and recruitment literature in Federal Job Information Centers nationwide and in cooperation with "Project Transition," the Armed Forces outplacement service in military bases.
- e. Distribution of flyers and specific job announcements to academic departments, student advisors and placement officers.
- f. Talks by Agency representatives to student and faculty groups at high school through graduate school levels.

Internal announcements of job opportunities are made through a Vacancy Notice System, coordinated and monitored in the central Office of Personnel, and through vocational counseling activities of personnel placement officers who, located in the central Office of Personnel, are currently aware of staffing needs throughout the Agency and serve the interest of all operating components. A consistent effort is made to fill vacancies as they arise through internal reassignment before going to external recruitment.

2. Use of positive recruiting methods.

The Office of Personnel operates a nationwide recruitment program. Full-time professional and/or clerical/technical field recruiters are assigned on a regional basis in 15 key cities throughout the U. S., including Washington, D. C. and interviewers are maintained in a Washington Area Recruitment Office to handle "walk-in" traffic. The efforts of these recruiters are supplemented by operating officials of the Agency who participate in the recruitment process to serve particular component needs.

Recruiters are kept currently aware of requirements through a system of written descriptions of positions that require new personnel from time to time, through oral and written direction from the Chief, Recruitment Division, through travelers from Headquarters to the field, and through their own trips to Headquarters for briefings and specialized component guidance.

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Through long experience in their respective regions, supplemented by the collective knowledge and advice of employees already in the Agency, recruiters have a detailed knowledge of the sources of potential candidates for employment. To develop and exploit these sources they employ a variety of positive recruitment methods. In summary, these include:

- a. Direct contact with placement directors, career counselors and departmental placement officers in colleges and universities. These are key contacts who provide access to students and academic departments, distribute information about the Agency's needs and application procedures, assemble resumes for review and follow-up by the recruiters, and identify and refer able students in fields of interest to us.
- b. Recruiters and other Agency officials cultivate acquaintance with faculty members in disciplines of interest to acquaint them with our needs and to generate referrals of candidates.
- c. Student interest is generated by selective advertising and by meetings with classes and other student groups, with follow-up by interview with students who respond.
- d. Written employment inquiries which reflect qualifications of potential interest are followed up by field recruiter interviews.
- e. Recruiters maintain contact with military installations in their respective regions where people are to be found who are leaving the service with skills and experience appropriate to Agency needs. Prospects are identified, usually with the help of "Project Transition" officers, and interviews are conducted.
- f. Recruiters, often in collaboration with appropriate Agency specialists, attend meetings of professional societies and associations and, working with the placement function normally available at the meeting, identify candidates and arrange interviews.

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- g. Contact is maintained with U. S. and state employment services throughout the country to publicize our needs and obtain candidate leads.
- h. Recruiters participate in "career days" and "job fairs" in schools at all levels including high schools, vocational and technical institutions as well as colleges and "job fairs" organized to assist veterans in obtaining employment.
- i. Minority recruitment is emphasized, and special efforts are made to generate applications and referrals in the predominantly black schools and through organizations supporting Equal Employment objectives. Black employees already in the Agency participate actively in this effort and a black professional recruiter is involved full time.

Once the candidate has been identified, recruitment begins with an interview. The nature and location of the initial interview and follow-up action are determined by considerations of security and cover; i.e., if the individual appears to be a likely candidate for assignment in a covert capacity, precautions are taken from the outset to avoid his or her public identification with the Agency. In any case, the interview is an initial exchange of communication which serves primarily to establish a presumption of serious interest and employability. When it produces a completed application, the next steps in the processes of selection begin.

- 3. Job evaluation system and qualification standards followed.

The CIA follows a job evaluation system based on that established under the Classification Act of 1949. The basic occupational coding system established by the Civil Service Commission for Federal positions has been adapted to CIA positions. The position grades and grade definitions of the Classification Act are utilized, as well as the pay schedule, the step-rate system, premium pay rates and other benefits applicable to General Schedule employees.

Civil Service Commission position standards are used in the classification of CIA positions to the extent that they are applicable.

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Agency position standards have been developed for positions not covered by CSC Standards. These include supergrade positions, intelligence and operations officers, and various technical and support positions. Job comparison is a standard method used in classification where standards are not available. Internal comparison and comparison with positions outside the Agency are both used.

Qualification standards established by the Civil Service Commission are followed.

The Agency system provides for a periodic classification review of all positions at least once every three years, for accuracy of position levels and category as well as for effective employee utilization.

The CIA was excepted from CSC classification system on August 8, 1949 by authorization of the CSC Chief, Personnel Classification Division.

Upon the enactment of Public Law 429 - 81st Congress, the "Classification Act of 1949" on October 28, 1949, the CIA was specifically exempted from Federal classification law.

4. Examining methods and techniques practiced.

Evaluation of the applicant's academic and professional background and level of performance is based on review of transcripts, certificates, honors achieved and other related evidence which is a matter of record in the application. Proficiency tests are used only to verify claimed and measurable skills in such fields as foreign languages, shorthand, typing, certain types of office machine and computer operations and communications equipment. The tests used in such instances are standard measures in general use in government and private enterprise.

For clerical applicants a general aptitude test is used, again a standard and widely used instrument.

Specialized aptitude tests are used for applicants for certain technical fields of work; e.g., computer operations, communications, photo interpretation, who are otherwise qualified

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but lack established skills. The objective is to obtain some measure of trainability and probable adjustment to the field of work involved.

The basic instrument used in measuring and assessing the qualities of professional applicants is a Professional Applicant Test Battery. It consists of a series of standard measures plus an essay which in the aggregate provide a profile of the individual's interests, aptitudes, intellectual level, vocational preferences and probable adaptability to typical Agency work situations. It is administered for the Agency by the Educational Testing Service at test centers located throughout the country. It is not a pass-fail test. The results are evaluated by the Agency's Psychological Services Staff and are reported to selection officers in the form of interpretative comment.

With the exception of basic skills tests such as typing and shorthand, these tests have no absolute value and are not used to rank applicants in any formal or structured manner. Test results are only one part of the evidence considered in the selection decision. The evaluation of applicants is on a comparative and competitive basis to select the best from among the total number available. The final decision is the result of multiple appraisals of all available evidence, in relation to the positions to be filled.

No formal registers or other employment lists are maintained, but significant qualifications data are entered for future reference in a computerized Qualifications Inventory and applicant file summaries are preserved.

5. Selection and appointment practices utilized.

It is in the selection from among all applicants of those who are to be accepted for clearance processing that the widest Agency participation is involved. The process typically operates as follows.

New professional applicant files are placed initially in a central repository in the Office of Personnel and made available for component inspection. They are grouped according to fields of qualification and are summarized in

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an Acquisitions List which is compiled and distributed daily to the personnel officers in all components. They are retained for open inspection for a period of seven days, after which they may be withdrawn for further component review. Those not selected during this period of initial review are re-evaluated by selection officers in the central Office of Personnel and are "shopped" to appropriate components which may have overlooked them in the first place or may have prospective needs not yet taken fully into account. The objective is to insure the widest possible consideration of all applicant files, and to obtain a timely decision to accept for employment processing or to reject. Those selected are put into the process of medical and security clearance, and arrangements are made for the applicant to be interviewed further by officials in the prospective employing office.

After receipt of medical and security clearance, the final decision to hire is made by the head of the employing component.

The Agency is exempted by law from automatic and invariable application of veteran preference, but in practice preference is given to the veteran wherever possible. We consider military service to be a valuable additional qualification, either specifically or in general, and in instances of approximately equal qualifications, the veteran will be considered over the non-veteran.

Observance of the principles and objectives of Equal Employment Opportunity has come to be an important and emphasized feature of our personnel system. Reference was made earlier to special recruitment efforts in this area, efforts which are resulting in increased numbers of minority applicants and entrants on duty. Minority applications are monitored carefully in the selection process, both by the Office of Personnel and by the Deputy Directors of the major components, and decisions to hire or reject are confirmed by the Deputy Director in charge of the area concerned. Component performance in minority employment is reported periodically to the Executive Director-Comptroller and is reviewed by him with the Deputy Directors. Components

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which appear to be lagging become the object of follow-up action by the Agency Equal Employment Opportunity Officer.

b. Promotion Policies in Effect

For many years the Agency has operated under a policy of competitive selection for promotion.

1. Policy:

The promotion of employees is based on competitive evaluation of their performance, qualifications, length of service, and value to the Agency. Employees who have been downgraded without personal cause are given full consideration for promotion to their original grade when competitive evaluations are being made.

Each Career Service comprises a competitive area for promotion for members of that Service. The Head of a Career Service may establish separate areas of competition within that Service when necessary because of differences in occupation or functional lines of work performed by its personnel.

Promotions are limited to one-grade advancements. Exceptions to this policy are made only when the Director of Personnel determines, upon recommendation of the Head of the Career Service concerned, that exception is justified.

2. Procedures:

Promotion recommendations are submitted in accordance with instructions and time schedules prescribed by the Heads of Career Services. Promotion recommendations are not made on fitness reports.

(The competitive promotion evaluation of personnel in grades GS-09 through GS-14 is accomplished by the Heads of Career Services at least annually.

Employees in grades GS-08 and below are evaluated for the purpose of promotion whenever the Heads of Career Services consider it appropriate. Although formal competitive

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evaluation is not required for these personnel, the basic principle of competitive evaluation is followed in selecting them for promotion.

c. Removal Bases and Procedures in Effect

The Agency manages removals separately as they are concerned either with the separation of surplus personnel or with the involuntary separation of individuals.

1. Separations of surplus personnel are accomplished under the authority of Section 102(c) of the National Security Act of 1947 as amended under procedures by which an Agency employee may be declared excess to manpower needs of his directorate or independent office, declared surplus to the Agency, and thereafter terminated.

When a Deputy Director or Head of an independent office determines that an employee is excess to the manpower requirements of his directorate or independent office, he so notifies the employee in writing. In making this determination he considers current and anticipated manpower requirements as well as the employee's performance, nature of service, qualifications and grade.

The Deputy Director or Head of an independent office forwards any declaration made pursuant to the paragraph above to the Director of Personnel who informs the employee in writing of his right to submit within 10 days a request to be heard orally by an appropriate officer of the Office of Personnel or to state in writing to the Director of Personnel why he should not be declared excess to his directorate or independent office or to provide any other information he deems relevant. After appropriate review including consideration of any statements or any information provided by the employee, the Director of Personnel may request the Deputy Director or Head of an independent office to reconsider the declaration of an employee as excess.

The Director of Personnel reviews the qualifications and background of an employee declared excess to the manpower requirements of a directorate or independent office with a view toward placing him elsewhere in the Agency at the same

or different grade. As part of this review process, the employee is interviewed by an appropriate officer of the Office of Personnel.

If the Director of Personnel is unable to assign elsewhere in the Agency an employee who has been declared excess to the manpower requirements of a directorate or independent office, he recommends to the Director of Central Intelligence that he (1) declare the employee surplus to the Agency; (2) terminate the employee's employment, utilizing his authority under Section 102(c) of the National Security Act of 1947 as amended; and (3) establish the effective date of such termination. The Director of Personnel notifies the employee in writing of this action and of the employee's right to present through the Director of Personnel to the Director of Central Intelligence within 10 days any information in writing concerning why his employment should not be terminated and any other information he deems relevant.

Upon receipt of a recommendation by the Director of Personnel to declare an employee surplus to the Agency, to terminate his employment and to establish the effective date of such termination, the Director of Central Intelligence may take one or more of the following actions.

- a. Refer the recommendation to the Inspector General, who shall consider it and forward his own recommendation to the Director of Central Intelligence.
- b. Declare the employee surplus to the Agency, terminate his employment pursuant to Section 102(c) of the National Security Act of 1947 as amended, and establish the effective date of such termination. Such effective date shall be not less than 30 days after the Director of Central Intelligence has taken action to terminate his employment.
- c. Disapprove in whole or in part the recommendation of the Director of Personnel.

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The Director of Personnel notifies the employee in writing of the decision of the Director of Central Intelligence.

2. Involuntary separations may result from those situations leading to a determination by the Agency of unsuitability of the employee such as failure to meet the work and efficiency requirements of the Agency, failure during the initial 12-month trial period to demonstrate the qualifications required for regular assignment, failure of a career-provisional employee to meet career employment standards at the completion of the provisional period, failure to meet Agency security standards, inability to meet Agency medical standards, abandonment of position, insubordination, inattention to duty, poor attendance, misuse of official funds, a criminal act, personal misconduct, or other evidence of unsuitability.

Criteria:

- a. Work and efficiency. An employee who fails to meet the work and efficiency requirements of his Career Service or fails to adequately perform the duties of the position to which he is assigned will be considered for separation from that Career Service and possibly the Agency. If the Deputy Director or Head of Career Service having jurisdiction concludes that the individual should be separated from the particular Career Service, he will forward the case with all pertinent documentation to the Director of Personnel for further processing.
- b. The First-Year Trial Period. Deputy Directors and Heads of Career Services are responsible for identifying employees under their jurisdiction who do not successfully complete the First-Year Trial Period. The Deputy Director or Head of Career Service, or his representative, will notify the Director of Personnel before the close of the First-Year Trial Period when an employee has failed to meet the applicable employment standards.
- c. The Three-Year Provisional Period. Heads of Career Services are responsible for evaluating the suitability of each career-provisional employee who is otherwise eligible

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for conversion to career employee status and with the approval of the Deputy Director concerned, for recommending termination of the employee's career-provisional appointment or employment if he has failed to meet the applicable career employment standards.

- d. Security and medical standards. The Director of Security and the Director of Medical Services will make appropriate recommendations to the Director of Personnel when an employee does not meet Agency security or medical standards.
- e. Standards of conduct. Deputy Directors will ensure that appropriate officials take or initiate corrective or disciplinary action as necessary or, if warranted, forward a recommendation for separation to the Director of Personnel if an employee fails to meet Agency standards of conduct. Whenever the Director of Personnel is informed that an employee has failed to meet Agency standards of conduct, he will, if the matter is of a serious nature, review the case with the Deputy Director concerned and, as appropriate, the Head of the employee's Career Service. He may, in coordination with the Deputy Director concerned, conduct an investigation if this is required. If the Director of Personnel concludes that the individual should be separated, he will forward his recommendation with appropriate documentation through the Deputy Director concerned and the Head of the employee's Career Service to the Director of Central Intelligence.

Procedures:

- a. During the trial period:

Upon receipt by the Director of Personnel of written notification from the Deputy Director concerned or the Head of the employee's Career Service that an employee's performance, conduct or general character traits have been determined to be unsatisfactory during his trial period, the Director of Personnel or his designee will review the matter with that official or his designee. If upon such review the Director of Personnel concurs with the determination of the employee's shortcomings, he will terminate his employment.

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b. Following completion of trial period:

Whenever a Head of Career Service proposes to recommend the separation of an employee under his jurisdiction, he or his representative will first review the case with the Director of Personnel or his designated representative, who, if appropriate, will review the case with the Director of Security or the Director of Medical Services to identify relevant security or medical factors.

When a case is referred to the Director of Personnel with a recommendation that an employee be separated, the Head of Career Service or his representative will advise the employee concerned and inform him of the reasons for the recommended separation.

Upon receipt of a recommendation from a Head of Career Service, or from any other Agency official authorized to make recommendations that an employee be separated, or on the basis of his own review of a personnel problem situation, the Director of Personnel or his designated representative will confirm to the employee that he is being considered for separation and will extend to him an opportunity to submit a written statement or to comment orally within 10 days.

If the Director of Personnel decides not to recommend termination of the individual's employment following his review of the case, he will consult the Head of the Career Service or Deputy Director concerned as to another course of action. If the Director of Personnel concludes that termination of the individual's employment is to be recommended, he will advise the employee of that fact and forward the case to the Director of Central Intelligence for decision. In this event, the Director of Personnel will also notify the individual that he may file a written appeal of the termination recommendation with the Director within 10 days.

Pursuant to his statutory authority, the Director may separate an employee immediately when he deems such action necessary or advisable in the interests of the United States. To the extent consistent with the interests

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of the United States, the procedures set forth in the paragraphs immediately above will normally be followed, although in certain cases they may be impracticable or inadvisable. The Director, therefore, may determine it to be in the interests of the United States to direct a termination without further action.

- d. Are the Methods of Recruiting, Selection, Promotion and Removal Considered to be Based on Merit Principles?

Yes. This was confirmed recently when the chairman of the Civil Service Commission advised the Director, Office of Management and Budget, "The Commission, recognizing the necessary qualifications and caliber of persons holding career type appointments in the CIA, considers the non-competitive entry of such persons into the competitive service as compatible with merit system principles. The on-site observations of a Commission team assure us that the operations of the CIA personnel system are consistent with merit principles." (Letter from Commissioner Hampton to the Director, OMB, dated 3 December 1971, recommending an Executive Order for the President's approval.)

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III. Agency analysis of need for continuing the exception.

- a. Essentially the employment conditions and staff problems of today are unchanged from those existing when the statutory exemptions were enacted. At that time, the Agency's functions and activities to a large degree bore directly on national defense and hence were subject to careful security; this remains true today. Thus, recruitment, the establishment of positions, the number and types of positions, the disclosure of certain of our people as CIA employees and related personnel policy and practice are matters of classified information. Then, as now, changes in the types of positions and skills needed occur as the intelligence requirements placed on the Agency change and these changes and patterns also are classified.
- b. It is essential that the statutory exception for CIA be continued; the reason obviously is the continuing need to provide for secrecy for our operations and functions. As indicated, there are continuing changes in our recruitment and personnel needs and patterns which are matters of classified information. It would not be possible to provide the necessary security in connection with our personnel policy and program through the normal competitive service practices and requirements. For example, the Director's authority to terminate employees is in the broadest terms and does not require that charges be placed from which administrative appeals may ensue, etc. See Section 102 (c) of the National Security Act (50 U.S.C. 403(c)). Decisions by the Director under the CIA Retirement Act of 1964 are not subject to appeal. See Section 201(c) of the CIA Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 Note). The recruitment of employees from lists maintained by the Commission of course would serve to identify those individuals as CIA employees. The establishment or approval of CIA positions by the Commission in some instances would indicate areas of CIA activity where CIA interest in such activities must be classified and protected from disclosure. These considerations apply not only with respect to employees recruited for intelligence gathering duties and intended to be placed in situations where their CIA employment is not to be revealed. Our career employee concept contemplates that all employees are subject to reassignment and to assignment abroad.

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Personnel Operating Policies for Attorney Positions

Attorney positions of course are filled on the basis of the Agency's needs. Because the intelligence function, that is, the business of the client of CIA lawyers, is a speciality not widely known outside intelligence circles, the Agency seeks to recruit some of its lawyers from other components within the Agency. We also seek to recruit lawyers with legal experience elsewhere. New employees from law school graduating classes frequently have no employment experience at all. In all instances we seek well qualified persons based on their law school records and professional background and personal qualities and employment experience. In establishing grades for newly hired lawyers and for promotion purposes, we attempt to be competitive with government practice generally. In some instances cover and security considerations require special recruiting and assignment. As with other positions within CIA, it is necessary that attorney positions continue to be excepted from the competitive service.

Subchapter 2. Cooperation With Other Merit Systems

[NOTE: Subchapter 1 is reserved.]

2-1. INTERCHANGE OF ELIGIBLES

→ON REGISTERS←

The Commission is authorized by Executive Order 9830 to certify eligibles from appropriate registers maintained by Federal or territorial examining offices, or civil service examining offices of State and local agencies. The certification may be made only with the agreement of the office involved and a finding by the Commission that the requirements of law concerning appointments to the competitive service have been met. These offices, upon agreement with the Commission, may certify eligibles from appropriate registers maintained by the Commission.

2-2. MOVEMENTS OF PERSONS BETWEEN THE COMPETITIVE CIVIL SERVICE AND OTHER MERIT SYSTEMS

a. Authority and requirements. The Commission and any Federal agency having an independent merit system →(i.e. an "excepted agency")← may, pursuant to Executive Order 10577, civil service rule 6.7, enter into an agreement providing for the movement of persons between the competitive civil service and the independent system. Under the terms of an agreement, normally an excepted employee of the agency with the independent merit system may noncompetitively transfer to a competitive position in another Federal agency. Agreements may be established when the Commission and the agency with the independent merit system involved determines that← movement between the two systems is in the interest of good administration and is consistent with the intent of civil service and other applicable laws. An agreement prescribes the conditions for interchange of persons and defines the status and tenure acquired by persons when they move from one system to the other. A proposal to establish an agreement should be submitted to the →Director, Bureau of Recruiting and Examining,← Civil

Service Commission, Washington, D.C. 20415, for approval by the Commission.

b. Criteria for approval of an agreement.

(1) The Commission's criteria when it considers a proposal to authorize the interchange of employees between the competitive civil service and another Federal merit system are:

(a) →The basic framework of the merit personnel system must be established through law, rules, regulations, or instructions in written form and← must be designed to achieve, and in practice tend to achieve, the following general objectives:

- (i) →Recruiting, selecting, and advancing employees solely on the basis of their relative abilities, knowledges, and skills including open and outside competition for positions with selection based on merit;
- (ii) Providing equitable and adequate compensation to attract and retain high-quality personnel, with appropriate incentives and recognition for excellence in performance;
- (iii) Maintaining a formal position classification or job evaluation system that serves as the foundation for objectively and consistently determining the qualifications requirements of job.
- (iv) Retaining employees on the basis of adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected;
- (v) Assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, age, sex, religious creed, physical handicap, or other nonmerit factors and

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- with proper regard for their privacy and constitutional rights;
- (i) Assuring that employees are protected against arbitrary action, personal favoritism, and coercions for partisan purposes, and providing for fair and impartial review and correction of improper actions;
 - (ii) Compliance with part 713 of the CSC implementing regulations concerning equal employment opportunities, including the requirement to operate under an annually approved EEO affirmative action plan, (for Federal agencies as defined in section 717(a) of P.L. 92-261);
 - (viii) Conducting positive employee-management relations and communications.←
 - (b) The basic framework of the system must be established through law, rules, regulations, or instructions in written form.
 - (c) Actual operations under the system must accord with the framework established.
 - (d) In filling positions under the →independent merit← system the following →concepts← of open competition →and merit selection← must be applied:
 - (i) Sufficient publicity must be given so that a reasonable amount of information is made available to citizens about the existence of vacancies, →e.g., job announcements posted in appropriate CSC job information centers.←
 - (ii) Interested persons who have learned of the vacancy must have a reasonable opportunity →to apply for the vacancy and← to make known their availability for consideration and →selection.←
 - (iii) Standards of competence and fitness must be applied impartially to all persons who make themselves available. →These standards should be based on a job analysis to identify basic duties and responsibilities, skills, knowledges, and abilities required to perform the duties and
 - (iv) The standards must contain no test which constitutes discrimination based on factors other than competence and fitness. This includes the absence of any political test or political clearance of applicants.
 - (v) Selection must be from among those →applicants← determined on the basis of the →aforementioned← standards to be most competent.
 - (vi) Each applicant should be able to learn what consideration was given to his application.
 - (vii) Each applicant should have an opportunity to request and receive an administrative review of the consideration given to his application.
 - (e) Procedures must be followed under which persons entitled to veteran preference are accorded the preference required →by law in the selection process and under which preference eligible applicants have an opportunity to ascertain in what manner← their preference was applied.
 - (f) A system for the discontinuance of the interchange agreement at the request of one or both parties must be established.
 - (g) Prior to entering into any agreement the Commission may conduct an on-site review of the excepted agency's personnel management system. Additionally, procedures will be established to allow for periodic personnel management evaluations conducted by CSC personnel or agency personnel with CSC representatives on the evaluation team.←
 - (2) Other conditions affecting approval, including mutual agreement that interchange would be in the interest of good administration, the kinds of status and tenure accorded, and other specific conditions →may be← developed as part of an individual agreement. This phase may be undertaken once it is determined that the basic criteria →outlined above have been← met and that both the agency and the Commission believe that an interchange agreement is practical and desirable.

II.

3. Paragraph 1 line 3, delete "Civil Service Commission" and replace with "Office of Personnel Management".

Paragraph 2, revise this paragraph to read as follows:

The Office of Personnel Management position classification standards both in the narrative and Factor Evaluation System forms are modified for use in the classification of CIA positions. Position classification standards have been developed for positions unique to the Agency. These include Senior Intelligence Service (equivalent to Senior Executive Service) positions, and intelligence and operations officers. The CIA is also developing FES Benchmark position descriptions for various technical and support positions. Internal job comparison and comparison with positions outside the Agency are used where standards or benchmarks are not available.

Paragraph 4, revise this paragraph to read as follows:

"Agency policy provides for a periodic position classification and position management review of all organizations at least once every three years. These reviews or surveys are for the purpose of insuring the accuracy of position allocation as to grade level, series and title as well as for effective employee utilization."

John: Suggest the following.

- 1) page 79/80. Item B. 1973 report to the 93rd Congress on Promotion policies.

All employees below SIS-4 are evaluated for competitive promotion by a personnel evaluation board or panel system at least annually. Uniform personnel evaluation board and panel precepts are prescribed for use Agency-wide. These include standard factors against which each employee is competitively evaluated.

- 2) Page 466. Item B. Promotion Policies in Effect. (12 Feb 73 ltr fm Colby to Jacobson)

All employees below SIS-4 are evaluated for competitive promotion by a personnel evaluation board or panel system at least annually.

Uniform personnel evaluation board and panel precepts are prescribed for use Agency-wide. These include standard factors against which each employee is competitively evaluated.

Pete

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